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S.B. CIVIL MISC. APPEAL NO.1635/2006.
(Usab Kunwar & Anr. Vs. Mala Ram & Ors.)

Date of Order :: 06.11.2006.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. Rajesh Shah, for the appellant.

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For quantification of compensation for accidental death of Inder Singh (about 46 years in age), the Tribunal has taken his monthly income as shown in the income certificate Ex.1 comprising of the basic salary, dearness allowance and other allowances; in all amounting to Rs.5899.65 per month and on that basis has taken the loss of contribution for the claimants, wife and mother of the deceased at Rs.4,000/- per month and with application of multiplier of 13 has assessed pecuniary loss at Rs.6,24,000/-. The Tribunal has further allowed Rs.15,000/- towards non-pecuniary loss and yet another Rs.10,000/- towards funeral expenses and then has allowed interest @ 7.5% per annum from the date of filing of the claim application, i.e. 10.01.2005.

The Tribunal has, if at all, erred in favour of the claimants-appellants and not against them. The deceased was obviously about 46 years in age as noticed from his Photo Identity Card Ex. 18 and his State Insurance Identity Card Ex.19. The Tribunal has taken entire income of the deceased

leaving aside only the perks and then has deducted only one-third on his personal expenditure. In view of the comparatively smaller family comprising only of three members, the component of personal expenditure could have been considered on higher side and that would have obviously reduced the loss of contribution. The application of multiplier of 13 is also on the maximum side. Moreover, the Tribunal has obviously erred in allowing an amount of Rs.10,000/- towards funeral expenses and there appears no justification for allowing such excessive amount on this head. Moreover, in the award made in the month of May 2006 allowing interest @ 7.5% per annum from the date of filing of the claim application is also on the higher side.

On such a liberal award as made by the Tribunal, claim for enhancement in this appeal remains totally bereft of substance.

The appeal fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI), J.

Mohan/